

### **REMARKS**

The Applicant respectfully requests reconsideration of the pending claims in the instant application in view of the following remarks. New claims 23-44 have been added. As such, claims 1-44 are now pending.

As a preliminary matter, the undersigned would like bring to the Examiner's attention that a Revocation and Power of Attorney was filed on April 30, 2004. The Revocation revoked the previous power of attorney and appointed the members of the undersigned's firm to prosecute the instant application. It is respectfully requested that the PTO records be updated to reflect this change.

Claims 1 and 2 have been rejected under 35 U.S.C. §103 (a) and claims 3-22 have been objected to as being dependent from a rejected base claim and would otherwise be allowable if rewritten in independent form.

Claims 1 has been rejected under 35 U.S.C. §103 (a) as being unpatentable over U.S. Patent No. 5,149,949 to Wike in view of U.S. Patent No. 5,296,689 to Redderson et al. Claim 1 recites an optical scanner for reading an optical code having a two-dimensional pattern of different light reflectivity. The scanner includes a light source for producing a light beam and a raster scanning assembly for receiving the light beam and producing an outgoing light beam having a two-dimensional scanning pattern. The raster scanning assembly includes optical elements shaped and positioned so that the two-dimensional scanning pattern produces at least on region of apparent greater brightness on the indicia. The region of apparent brightness has a shape and orientation suitable for assisting in alignment of two-dimensional scanning pattern of the outgoing light beam with the two-dimensional pattern of the optical code.

Wike neither teaches nor suggests an optical scanner having a raster scanning assembly including an optical element shaped and positioned so that the two-dimensional scanning pattern produces at least on region of apparent greater brightness on the indicia suitable for assisting in alignment of the two-dimensional scan pattern with the two-dimensional optical code. The Examiner contends that it is inferred that the scanning pattern shown in Wike consist of an area of greater intensity and of a less bright area according to Figure 2. However, it is believed that the Examiner is misconstruing the Wike reference. It is clear by the disclosure of Wike that a user trying to physically align a bar code with the scan pattern of Wike would find it impossible to align any scan line at all regardless if it is of

higher intensity. For instance, Wike states in column 2, beginning with line 12 that the arrangement of mirrors will generate a scan patten comprising a large number of rectilinear lines producing a highly dense scan pattern which is rotated in a circular direction enabling the scan pattern to scan a bar code label irrespective of its orientation (emphasis added). It would be highly impossible for a user to physically align any portion of the scan pattern of Wike with a bar code when such scan pattern is constantly rotating. In fact, alignment of the bar code is unnecessary. As stated, the code can be scanned regardless of its orientation as long as it passes over the scanning pattern.

The Examiner further contends that Figure 2 of Wike illustrates a pattern having bright and less bright areas. However, it is believed that the scanning pattern of Figure 2 is a depiction of several patterns at different moments in time. Based on the description in Wike along with the Figures, Applicant believes that in the Wike device, it is physically impossible to have overlapping light beams in the scanning pattern since the mirrors are rotating thus rotating the scanning pattern. For example, in column 4, beginning with line 39 Wike states that the mirror arrangement results in a plurality of partial scan lines as the full pattern effectively rotates around the drive shaft. As such, it is clearly evident that scanning pattern of Wike is a rotating pattern and it would be impossible to align any portion of the Wike scanning pattern with a bar code symbol. Therefore, Applicant submits that the Wike reference does not teach an optical scanner having a raster scanning assembly including an optical element shaped and positioned so that the two-dimensional scanning pattern produces at least one region of apparent greater brightness on the indicia suitable for assisting in alignment of two-dimensional scanning pattern of the outgoing light beam with the two-dimensional pattern of the optical code.

The Redderson reference does not cure the deficiencies of Wike to teach or suggest a an optical scanner for reading an optical code having a two-dimensional pattern of different light reflectivity as disclosed in claim 1. Therefore, it is respectfully submitted that claim 1 is not obvious in view of the cited references. Withdrawal of the rejection of claim 1 is respectfully requested.

Claim 2 depends from claim 1 and adds that the region of apparent greater brightness is a region in which the density of the scan lines in the two-dimensional scanning pattern is greater than in other regions. The cited references alone or in combination do not teach the

features of claim 2. Therefore, claim 2 is patentable over the cited references and withdrawal of the rejection is respectfully requested.

Claims 3-22 depend from claim 1 and are patentable over the cited references for the same reasons as set forth for claim 1 above. As such, claims 3-22 are now in condition for allowance.

New claim 23 is directed to an optical scanner for reading an optical code having a two-dimensional pattern of different light reflectivity. The scanner includes a light source for producing a light beam and a raster scanning assembly for receiving the light beam and producing an outgoing light beam having a two-dimensional scanning pattern. Further, the raster scanning assembly has optical elements shaped and positioned to produce a two-dimensional scanning pattern having at least one region of apparent greater brightness generally centralized within the scanning pattern when projected onto an indicia. The region of apparent greater brightness has a shape and orientation suitable for assisting in alignment of two-dimensional scanning pattern of the outgoing light beam with the two-dimensional pattern of the optical code. Applicants believe new claim 23 is patentable over the cited references and is in condition for allowance.

Claims 24 includes the features of original claim 1 and original claim 3. As indicated by the Office Action, such a claim is found allowable. As such, claim 24 is in condition for allowance.

Claims 25-44 depend from claim 24 and recite the features of the original dependent claims. As such, claims 25-44 are in condition for allowance.

In view of the foregoing, claims 1-44 are now in condition for allowance. A favorable response to this amendment in the form of a Notice of Allowance is hereby solicited.

Respectfully submitted,

Date: \_\_\_\_\_

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